

**SUBJECT:** Increasing the penalty for killing another person's cow, bison, or horse

**COMMITTEE:** Agriculture and Livestock — committee substitute recommended

**VOTE:** 7 ayes — T. King, González, C. Anderson, Burrows, Cyrier, Rinaldi, Stucky

**WITNESSES:** For — Marvin Wills, Texas and Southwestern Cattle Raisers Association; (*Registered, but did not testify*: David Sinclair, Game Warden Peace Officers Association; Robert Turner, Independent Cattlemen's Association, Texas Sheep and Goat Raisers Association; Todd Kercheval, Livestock Marketing Association of Texas, Texas Conservation Association for Water and Soil; Marissa Patton, Texas Farm Bureau; Darren Turley)

Against — None

**BACKGROUND:** Penal Code, sec. 28.03 establishes that a person commits an offense if the person intentionally or knowingly damages or destroys another person's tangible property without the owner's consent. The punishment is determined based on the pecuniary loss to the owner.

**DIGEST:** CSHB 2817 would make the intentional killing of another person's cow, bison, or horse a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

The bill would provide an exception if the person who had killed the cow, bison, or horse had done so in the course of the person's regular agricultural labor duties and practices.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

**SUPPORTERS SAY:** CSHB 2817 would deter the wrongful killing of cattle, bison, and horses by making the punishment equal to that for stealing one of these animals. Currently, theft of cattle or horses is punishable by a third-degree felony,

and it makes sense to punish both crimes equally because both deprive the owners of their animals.

The bill also would bring the Texas Penal Code into line with the laws of other states by considering the killing of another person's cow, bison, or horse a felony regardless of pecuniary loss.

CSHB 2817 would provide an exception for cattle, bison, or horses killed in the course of an individual's agricultural work, which would protect individuals in this industry from wrongful conviction. The bill could be amended to address concerns that this exception may be too broad.

**OPPONENTS  
SAY:**

CSHB 2817 would apply an overly broad exception to Penal Code, sec. 28.03(a)(1) and 28.03(a)(2), which would apply to every criminal mischief case of property damage or tampering filed, rather than just those dealing with the killing of a cow, bison, or horse. The bill's exception would require a prosecutor to disprove that the property in question was a cow, bison, or horse and that a cow, bison, or horse was not killed during agricultural duties. This could confuse juries and result in acquittal on a technicality if a prosecutor forgot to allege that the exception did not apply.

**NOTES:**

The author plans to offer a floor amendment that would make charges under Penal Code, sec. 28.03(a)(1) and sec. 28.03(a)(2) inapplicable to situations in which a head of cattle or bison or a horse was killed in the course of agricultural work.

A companion bill, SB 1204 by Perry, was referred to the Senate Agriculture, Water, and Rural Affairs Committee on March 9.